

Applicant requests a Special Exception under Section 2.16.050 K (15 Years or more) in a C-4 (Commercial) zone.

This would allow an existing 96.4' by 48.5' building which is located to within 0.9 feet of the rear property line and 0.4 feet of the side street property line.

The required rear yard setback is 10 feet and the required side street yard setback is 10 feet in the C-4 zone district.

BACKGROUND

The subject building is shown existing in a 1974 aerial and in the 1996-1997 aerial, 17 years ago, as it exists today. The current owner submitted a warranty deed showing that they purchased the property in November 2009. A site visit shows that there is no sidewalk adjacent to the property on Mattox Street, and that the sidewalk at the front of the property on Montana Street does not extend the entire width of the property.

CALCULATIONS

Required rear yard setback in C-4 zone district = 10'

Requested rear yard setback = 0.9'

Required side street yard setback in C-4 zone district = 10'

Requested side street yard setback = 0.4'

STAFF RECOMMENDATION

Staff recommends approval of the request for the Special Exception K, with a Condition that sidewalks are provided adjacent to the subject property along Mattox Street and Montana Avenue.

The Zoning Board of Adjustment is empowered under Section 2.16.050 K to:

"Permit the encroachment into the required yard setbacks for structures; provided, however, that the applicant can prove the following conditions:

1. The encroachment into the required yard setback has been in existence for more than fifteen years;
2. Neither the applicant nor the current property owner is responsible for the construction of the encroachment;
3. Neither the applicant nor the current property owner owned the property at the time the encroaching structure was constructed or built;
4. The encroachment, if into the required front yard setback, does not exceed fifty percent of the required front yard setback; and
5. The encroachment does not violate any other provision of the El Paso City Code."

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NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

SPECIAL WARRANTY DEED WITH VENDOR'S LIEN

Date: November 4, 2009

Grantor: NORTH AMERICAN DEVELOPMENT BANK, an International Bank Created by Treaty Between the United States of America and the Government of the United Mexican States

Grantor's Mailing Address: P.O. Box 683
Walnut, California 91788

Grantee: SEISA INVESTMENTS, LP, a Texas limited partnership

Grantee's Mailing Address: P.O. Box 221616
El Paso, Texas 79913

Consideration: Ten and No/100ths Dollars (\$10.00) and other good and valuable consideration to the undersigned paid by the Grantee herein named, the receipt of which is hereby acknowledged, and the further consideration of the execution and delivery by Grantee of that one certain promissory note in the original principal amount of SIX HUNDRED EIGHTY THOUSAND AND NO/100THS DOLLARS (\$680,000.00), said note being payable to the order of GECU, and bearing interest as therein provided, containing the usual clauses providing for acceleration of maturity and for attorney's fees, the payment of which note is secured by the vendor's lien herein retained, and is additionally secured by a Deed of Trust of even date herewith to a trustee named therein.

Property:

A portion of Tracts 1-B and 1-B-3-A, Section 40, Block 80, Township 2, TEXAS AND PACIFIC RAILWAY COMPANY SURVEY, in the City of El Paso, El Paso County, Texas, according to the resurvey made by El Paso County, Texas for tax purposes and being more particularly described by metes and bounds in Exhibit "A" attached hereto and made a part hereof for all purposes.

Reservations from and Exceptions to Conveyance and Warranty:

1. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements;
2. Standby fees, taxes and assessments by any taxing authority for the year 2009, and subsequent years and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership, but not those taxes or assessments for prior years because of an exemption granted to a previous owner of the Property under Section 11.13 Texas Tax Code, or because of improvements not assessed for a previous year;

3. Restrictive covenants recorded in Volume 1348, Page 0146 and Volume 1361, Page 0473, Real Property Records, El Paso County, Texas.

4. Rights of parties to an underground sewer line and electrical easement along the Southerly property line being utility easements and prescriptive rights visible and apparent on the ground and as shown on the survey, dated September 8, 2009, by Guillermo Licon, R.P.L.S. No. 2998, of SLI Engineering, Inc.

5. Easement to EL PASO ELECTRIC COMPANY recorded in Volume 3801, Page 1875, Real Property Records, El Paso County, Texas.

Grantor, for the consideration and subject to the Reservations from and Exceptions Conveyance and Warranty referenced above, grants, sells and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold the Property unto Grantee and Grantee's successors and assigns forever. Grantor binds Grantor and Grantor's successors and assigns to warrant and forever defend all and singular the Property unto Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim is by, through or under Grantor but not otherwise, except as to the Reservations from and Exceptions to Conveyance and Warranty referenced above.

It is expressly agreed that the vendor's lien, as well as the superior title in and to the Property, are retained against the Property and improvements located thereon until the above described note and all interest thereon is fully paid according to its terms, at which time this deed will become absolute. The vendor's lien and superior title in this Special Warranty Deed with Vendor's Lien are transferred to GECU, without recourse on Grantor.

When the context requires, singular nouns and pronouns include the plural.

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EXECUTED the date herein first stated.

GRANTOR:

NORTH AMERICAN DEVELOPMENT BANK,
an International Bank Created by Treaty Between the
United States of America and the Government of the
United Mexican States

By: Hugh Loftus, Director

Name: HUGH D. LOFTUS

Title: DIRECTOR

THE STATE OF CALIFORNIA)
COUNTY OF Los Angeles)

This instrument was acknowledged before me on the 4th day of November, 2009 by
Hugh Loftus of NORTH AMERICAN
DEVELOPMENT BANK, an International Bank Created by Treaty Between the United States of
America and the Government of the United Mexican States, on behalf of said Bank.

Notary's Seal:

Maria A. Le Gaspe Notary Public
Notary Public in and for the State of California



After Recording Return To:

Seisa Investments, LP
P.O. Box 221616
El Paso, Texas 79913
Attn: Mr. Julio Chiu

EXHIBIT "A"

9005 Montana Avenue

Property Description: A portion of Tracts 1-B and 1-B-3-A, Section 40, Block 80, Township 2, Texas and Pacific Railway Company Survey, City of El Paso, El Paso County, Texas.

METES AND BOUNDS

The parcel of land herein described is a portion of a portion of Tracts 1-B and 1-B-3-A, Section 40, Block 80, Township 2, Texas and Pacific Railway Company Survey, City of El Paso, El Paso County, Texas and is more particularly described by metes and bounds as follows:

COMMENCING at an existing city monument located at the centerline of Mattox Street (50' right-of-way), From whence, a found 9 inch nail for the centerline intersection of said Mattox Street and Mayflower Avenue (60' right-of-way) bears N01°01'50"E a distance of 1.44 feet; Thence, from the POINT OF COMMENCEMENT, S01°01'50"W along the centerline of Mattox Street, a distance of 641.47 feet to a point; Thence, leaving said centerline, N88°58'10"E a distance of 25 feet to a set ½ inch rebar with SLI cap stamped TX-2998 lying on the east right-of-way line of said Mattox Street, said point being the common westerly corner of parcel owned by Warren T. Investments Inc., (Tracts 1B3 & 1D1A1 & 1D1C1, Section 40, Block 80, Township 2, Texas and Pacific Railway Company Survey) and Subject Parcel, said point also being the POINT OF BEGINNING of this description;

THENCE, along said common boundary line, North 88° 58' 10" East, a distance of 297.19 feet to a set ½ inch rebar with SLI cap stamped TX-2998 for a corner lying on the west boundary line of Montana Industrial Center Unit Three (Vol. 26, Pg. 38, E.P.C.P.R.);

THENCE, along said boundary line the following courses:

South 01° 01' 50" East, a distance of 276.60 feet to a set nail on top of a block wall;

South 81° 10' 00" West, a distance of 50 feet to a set ½ inch rebar with SLI cap stamped TX-2998;

South 01°01'50" East, a distance of 150.00 feet to a point lying on the northerly right-of-way line of Montana Avenue (200' right-of-way), from which a found 9-inch nail bears S05°36'44"E 0.15 feet;

Thence, along said right-of-way line South 81°10'00" West, a distance of 197.90 feet to a set chiseled "X";

Thence, a distance of 29.95 feet along the arc of a curve to the right having a radius of 20.00 feet, a delta angle of $85^{\circ}47'20''$, and a chord bearing North $55^{\circ}56'20''$ West a distance of 27.23 feet to a point lying on the easterly right-of-way line of said Mattox Street, from which a 9-inch nail bears $S75^{\circ}03'29''W$ 0.12 feet;

Thence, along said easterly right-of-way line the following courses:

North $13^{\circ}02'40''$ West, a distance of 93.45 feet to a set $\frac{1}{2}$ inch rebar with SLI cap stamped TX-2998;

A distance of 94.36 feet along the arc of a curve to the right having a radius of 450.00 feet, a delta angle of $12^{\circ}00'50''$, and a chord bearing North $07^{\circ}02'15''$ West a distance of 94.18 feet to a set chiseled "X";

North $01^{\circ}01'50''$ West, a distance of 259.54 feet to the POINT OF BEGINNING of this description.

Said parcel of land contains 2.814 acres (122,591 Sq. Ft.) of land more or less.

A PLAT OF SURVEY OF EVEN DATE ACCOMPANIES THIS METES AND BOUNDS DESCRIPTION.

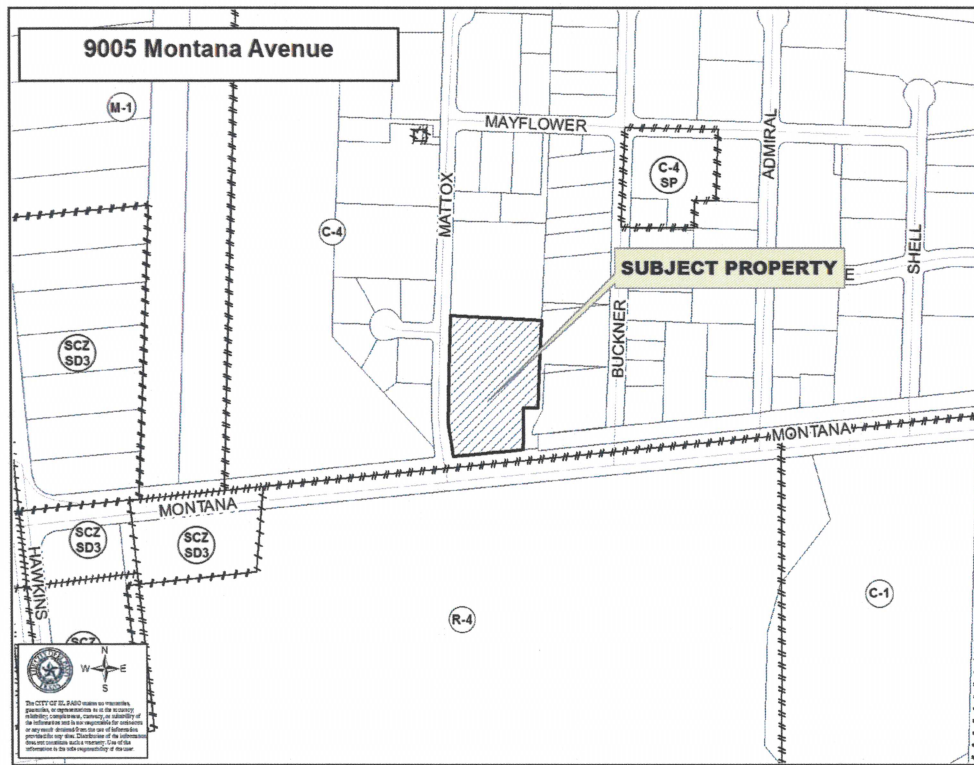
SLI ENGINEERING, INC.
Consulting Engineers - Land Surveyors

Guillermo Licon
Registered Professional Land Surveyor
Texas License No. 2998

September 9, 2009
Job# 06-09-2825
M&B/1558

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ZONING MAP



NOTIFICATION MAP

